

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

United States of America, Complainant v. Sophie Valdez, d/b/a La Parrilla Restaurant, Respondent; 8 U.S.C. 1324a Proceeding; Case No. 89100014.

**AFFIRMATION BY THE CHIEF ADMINISTRATIVE HEARING OFFICER  
OF THE ADMINISTRATIVE LAW JUDGE'S ORDER**

On January 9, 1989, the United States of America, by and through its agency the Immigration and Naturalization Service (hereinafter INS), filed a complaint with the Office of the Chief Administrative Hearing Officer against the Respondent, Sophie Valdez, d/b/a La Parrilla Restaurant (hereinafter La Parrilla). The INS charged La Parrilla with violations of the Immigration Reform and Control Act of 1986 (hereinafter IRCA), codified at 8 U.S.C. 1324a. The INS alleged one violation for knowingly hiring an unauthorized alien (Count I) and twelve paperwork violations (Counts II-VI). The INS requested that a cease and desist order be issued for Count I and that a total civil money penalty be assessed for Counts I through VI in the amount of \$15,250.

On January 18, 1989, the Honorable E. Milton Frosburg, Administrative Law Judge, was assigned to this case. On January 27, 1989, the Administrative Law Judge received Respondent's Answer to the Complaint.

On March 15, 1989, the INS filed an amended complaint, entitled ``Amended Complaint Regarding Unlawful Employment.'' The amended complaint added to the unauthorized hiring violation the alternative allegation of continuing to employ an unauthorized alien and reduced the number of paperwork violations to seven. The amended complaint also reduced the requested civil money penalty amount to \$9,200. Subsequently, on May 2, 1989, the Administrative Law Judge received Respondent's answer to the amended complaint. A hearing was held on May 17 and 18, 1989.

On September 27, 1989, the Administrative Law Judge issued a Decision and Order assessing a \$4,300 civil money penalty against La Parrilla. On October 6, 1989, the INS filed a Motion for Partial

Reconsideration and Clarification with the Administrative Law Judge. On November 15, 1989, the Administrative Law Judge issued an ``Order Denying Complainant's Motion for Partial Reconsideration and Granting Complainant's Motion for Clarification.'' However, on October 27, 1989, in accordance with 8 U.S.C. § 1324a(e)(7), the Decision and Order of September 27 had become the Final Agency Decision and Order. Section 1324a(e)(7) states:

The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection.

id. Further, 28 C.F.R. § 68.51(a)(1) states that ``if no review is requested under § 68.51(a), the order of the Administrative Law Judge becomes the final order of the Attorney General.'' id. No party filed a request for administrative review on the Administrative Law Judge's Decision and Order of September 27 and the Chief Administrative Hearing Officer did not modify or vacate the Decision and Order within 30 days. Consequently, the Decision and Order of September 27 became the Final Agency Decision and Order as of October 27, 1989. Therefore, pursuant to 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. § 68.51(a), the Chief Administrative Hearing Officer is precluded from reviewing the Administrative Law Judge's Decision and Order of September 27.

On November 27, 1989, the INS filed a request for administrative review with the Office of the Chief Administrative Hearing Officer, pursuant to 28 C.F.R. § 68.51(a). Ostensibly, the INS was requesting a review of the Administrative Law Judge's Order of November 15, which denied the INS Motion for Partial Reconsideration. However, the request actually seeks a review of issues addressed in the Decision and Order of September 27. The Order of November 15 did not change or modify any of the substantive findings made by the Administrative Law Judge in his Decision and Order of September 27, nor did it change the status of the parties. Therefore, the Order of November 15 had no legal effect on the Decision and Order of September 27.

ACCORDINGLY,

The Chief Administrative Hearing Officer has conducted a review of the Administrative Law Judge's Order of November 15. The issues presented have been carefully considered and the Chief Administrative Hearing Officer hereby affirms the Administrative Law Judge's Order of November 15.

**SO ORDERED.**

Date: December 12, 1989.

RONALD J. VINCOLI  
Acting Chief Administrative Hearing Officer.